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12 *Attorneys for Defendant Wells Fargo Bank, N.A. (incorrectly  
13 named as Wells Fargo N.A. and America's Servicing Company)*

14  
15 UNITED STATES DISTRICT COURT  
16  
17 DISTRICT OF NEVADA

18  
19 DIMITRITZA TOROMANOVA and  
20 DAVID-WYNN:MILLER

21 Plaintiffs,

22 vs.

23 WELLS FARGO N.A., SOMA  
24 FINANCIAL, MORTGAGE  
25 ELECTRONIC REGISTRATION  
26 SYSTEMS INC., AMERICA'S  
27 SERVICING CO., NEVADA TITLE,  
28 NATIONAL DEFAULT SERVICING  
CORPORATION,

Defendants.

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CASE NO. 2:10-cv-02080-KJD -PAL

**DEFENDANT WELLS FARGO BANK,  
N.A.'S REPLY IN SUPPORT OF  
MOTION TO DISMISS**

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21 Defendant Wells Fargo Bank, N.A., incorrectly named as "Wells Fargo N.A." and  
22 America's Servicing Company<sup>1</sup> ("Wells Fargo") files this reply in support of its Motion to  
23 Dismiss Plaintiffs' Complaint, ECF #5.

24  
**MEMORANDUM OF POINTS AND AUTHORITIES**

25 As explained in the Motion to Dismiss, Plaintiff's Complaint must be dismissed for failure  
26 to comply with FRCP 8 because Wells Fargo is unable to comprehend the statements in the  
27 Complaint. Additionally, the Complaint does not survive a motion to dismiss under FRCP

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<sup>1</sup> America's Servicing Company is the doing business as name of the servicing division of Wells  
29 Fargo Bank, N.A.

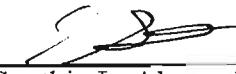
12(b)(6) because it does not contain on its face sufficient facts to state a claim to relief. In sum,  
 2 Wells Fargo does not have notice of the nature of the claims against it.

3 This Court should grant the Motion to Dismiss for the reasons stated therein, and because  
 4 Plaintiffs failed to file points and authorities in response to the motion. Pursuant to Local Rule 7-  
 5 2(b), points and authorities in response to the Motion to Dismiss were due January 10, 2011.  
 6 Local Rule 7-2(d) states that the "failure of an opposing party to file points and authorities in  
 7 response to any motion shall constitute a consent to the granting of the motion."

8 Plaintiffs filed a document on January 13, 2011 (ECF #11), but such document is not a  
 9 response to the Motion to Dismiss. The document appears on the docket as "Supplement: Quo-  
 10 Warranto-Complaint-Document" and the document is titled "Quo-Warranto-Complaint-  
 11 Document" rather than a response or opposition to the Motion to Dismiss. Even if the document  
 12 was filed in response to the Motion to dismiss, it does not contain reference to any legal authority  
 13 in support of any claims, and like the Complaint, Wells Fargo is unable to understand the  
 14 document's contents. Because Plaintiffs failed to file points and authorities in response to the  
 15 Motion to Dismiss pursuant to Local Rule 7-2, and because the Complaint does not comply with  
 16 FRCP 8 and does not state any claims for relief, Wells Fargo requests that this Court grant its  
 17 Motion to Dismiss with prejudice.

18 Dated: January 24, 2011

SNELL & WILMER, L.L.P.

19 By: 

20 Cynthia L. Alexander, Esq.  
 Erica Stutman, Esq.  
 3883 Howard Hughes Parkway, Suite 1100  
 21 Las Vegas, NV 89169  
 22 *Attorneys for Defendant Wells Fargo Bank,*  
 23 *N.A. (incorrectly named as Wells Fargo*  
*N.A. and America's Servicing Company)*

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## CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing DEFENDANT WELLS FARGO BANK, N.A.'S REPLY IN SUPPORT OF MOTION TO DISMISS by method indicated below:

U.S. Mail  
 Electronic Delivery  
 Facsimile Transmission  
 Federal Express

And addressed to the following:

Dimitritza Toromanova  
David Wynn Miller  
P.O. Box 19153  
Las Vegas, NV 89132  
*Plaintiffs Pro Se*

Michael F. Bohn, Esq.  
LAW OFFICES OF MICHAEL F. BOHN, LTD.  
1880 E. Warm Springs Rd., Ste. 110  
Las Vegas, Nevada 89119  
*Attorney for Defendant Nevada Title Company*

Dated this 11 day of January, 2011.

An employee of Shell & Wilmer L.L.P.